

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BARBARA STUART-ROBINSON,  
Plaintiff,

v.

DEPARTMENT OF CORRECTIONS  
WASHINGTON STATE,  
Defendant

No. RBL C10-5861RBL

ORDER STAYING CASE PENDING 9<sup>TH</sup>  
CIRCUIT REVIEW [Dkt. #1]

THIS MATTER comes before the court on plaintiff's Motion to Proceed *in forma pauperis*. [Dkt. #1.] The court has considered the motion and the remainder of the record herein.

Plaintiff requests that the court permit her to proceed *in forma pauperis* (IFP), that is, without paying the \$350 filing fee for a civil case. The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma liberally and has afforded plaintiff the benefit of any doubt. *See Karim-Panahi v. Los Angeles Police Dep't*, 839 F.2d 621, 623 (9th Cir.1988).

The claims alleged by the Plaintiff appear to arise out of the same facts as her prior complaint in *Robinson v. Department of Corrections*, Cause no. 10-5652RBL. That case was dismissed due to a lack of jurisdiction, and this case appears to be a response to that Order of Dismissal [*See* Dkt. #32 in Cause No. 10-5652].

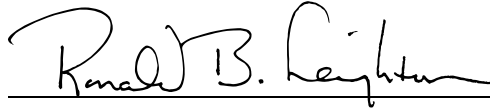
1 However, instead of (or in addition to) re-filing her claims with the proper jurisdictional  
2 bases, Plaintiff chose to appeal the Court's Order to the Ninth Circuit. [See Dkt. # 34 in Cause  
3 No. 10-5652]. Plaintiff cannot prosecute both actions simultaneously, given that they are  
4 essentially the same case.

5 The Court will therefore STAY this action, including Plaintiff's IFP application, until  
6 such time as the Ninth Circuit resolves her appeal of the Court's dismissal in Cause No. 10-5652.  
7

8 The clerk will enter an order STATISTICALLY TERMINATING the case pending that  
9 resolution, and the plaintiff is INSTRUCTED to notify the court when that appeal is complete.

10 **IT IS SO ORDERED.**

11 DATED this 2nd day of FEBRUARY 2011.

12  
13 

14 RONALD B. LEIGHTON  
15 UNITED STATES DISTRICT JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28